

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JESUS CHAVEZ,
Plaintiff,

No. C 13-4371 JCS (PR)

ORDER OF DISMISSAL

v.

R. SHEPHARD,
Defendant.

Plaintiff has failed to comply with the Court's order to (1) file a complete application to proceed *in forma pauperis* ("IFP"), or (2) pay the full filing fee of \$350.00. Accordingly, the action is DISMISSED without prejudice for failing to respond to the Court's order, and for failure to prosecute, *see* Fed. R. Civ. P. 41(b).¹ Because this dismissal is without prejudice, plaintiff may move to reopen the action. Any such motion **must** contain (1) a complete IFP application, or (2) full payment for the filing fee of \$350.00. The Clerk shall enter judgment in favor of defendant, and close the file.

IT IS SO ORDERED.

DATED: October 29, 2013


JOSEPH C. SPERO
United States Magistrate Judge

¹ Plaintiff has consented to magistrate judge jurisdiction. The magistrate, then, has jurisdiction to decide this motion, even though defendants have not been served or consented to magistrate jurisdiction. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995) (holding that magistrate judge had jurisdiction to dismiss prison inmate's action under 42 U.S.C. § 1983 as frivolous without consent of defendants because defendants had not been served yet and therefore were not parties).